

DECLARATION UNDER 37 U.S.C. 1.132

Appl. No. 09/317303
Applicant: Donoho, Bruce A.
Filed: May 24, 1999
TC/A.U.: 3644

I, the undersigned, Josef Wisbacher, hereby declare as follows:

1. I have been involved in molding plastic parts since 1973, and am presently employed as a mold maker and mold designer.
2. I recently read a copy of application of the above reference application filed by Mr. Donoho on May 24, 1999. Among other things I understand that Mr. Donoho is claiming to have developed a design for an elongated, molded plastic bird deterrent with pairs of spikes oriented so that adjacent spikes on each side alternate up and down.
3. I have no particular knowledge or experience in patent law, and I do not feel comfortable drawing legal conclusions related to such law. What I can say is that I have made molded plastic parts for literally hundreds of customers, and have an excellent understanding of what was or was not considered feasible by those in the field at different points in time.
4. As of May 24, 1999, one of ordinary skill in the art would have thought that this is/ was impossible to mold an elongated, molded plastic bird deterrent such as that claimed by Mr. Donoho in his application. In particular, one of ordinary skill in the art would have expected that such a part would have to be molded in two pieces and then glued together, and it was not appreciated at that time that merely orienting the pairs of spikes oriented so that adjacent spike on each side alternate up and down would solve that problem.
5. I consider myself to have been one of at least ordinary skill in the art as of May 24, 1999, and I would not have known how to solve that problem at that time. Nor would it have been obvious to me at that time to even try the solution invented by Mr. Donoho. If he had brought his solution to me at that time, I would have been extremely skeptical of his chances of success...not to mention the high cost of developing and producing a tool/ mold to accomplish this.

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6. I hereby declare that all statements made herein of my own knowledge are true and that statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like made are punishable by fine or imprisonment, or both, under Title 18, United States Code, Section 1001, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Executed at Orange CA, this 6 th day of November, 2006

By: J. Delacruz